

**AMERICAN HOME TITLE AND ESCROW COMPANY**

**8774 Yates Drive, Suite 140  
Westminster, Colorado, 80031**

**MARKET CONDUCT EXAMINATION REPORT  
as of December 31, 2003**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**AMERICAN HOME TITLE AND ESCROW COMPANY  
8774 YATES DRIVE, SUITE 140  
WESTMINSTER, COLORADO 80031**

**MARKET CONDUCT  
EXAMINATION REPORT  
as of  
December 31, 2003**

**Prepared by**

**John J. Postolowski, CIE, MA, FLMI, AIRC, ACS  
&  
John E. Bell  
&  
David M. Tucker, AIE, FLMI, ACS**

February 18, 2004

The Honorable Doug Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway, Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of American Home Title and Escrow Company, has been conducted. The Company's records were examined at its office at 8774 Yates Drive, Suite 140, Westminster, Colorado 80031.

The examination covered a one-year period from January 1, 2003 to December 31, 2003.

A report of the examination of American Home Title and Escrow Company is herewith, respectfully submitted.

John Postolowski, CIE, MA, FLMI, AIRC, ACS

John E. Bell

David M. Tucker, AIE, FLMI, ACS

**MARKET CONDUCT  
EXAMINATION REPORT  
OF THE  
AMERICAN HOME TITLE AND ESCROW COMPANY**

**TABLE OF CONTENTS**

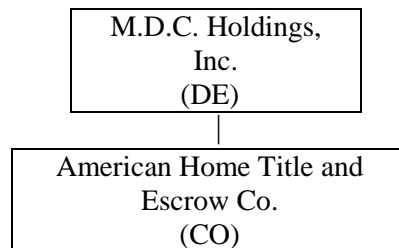
|   | <b>PAGE</b> |
|---|-------------|
| I. COMPANY PROFILE.....                   | 5           |
| II. PURPOSE AND SCOPE OF EXAMINATION..... | 6           |
| III. EXAMINER’S METHODOLOGY.....          | 8           |
| IV. EXAMINATION REPORT SUMMARY.....       | 10          |
| VII. EXAMINATION REPORT SUBMISSION.....   | 11          |

**COMPANY PROFILE**

American Home Title and Escrow Company (“AHT”) was formed as a Colorado corporation in 1996. AHT obtained its license to operate as a title insurance agent on September 25, 1996, but did not open its office in Colorado until mid-1999 after receiving a letter of clearance to operate as an affiliated business from the Colorado Deputy Insurance Commissioner in late 1998. AHT performs its Colorado business operations from its sole location at 8774 Yates Drive, Suite 140, Westminster, CO 80031. AHT currently employs nine (9) employees in its Westminster office.

AHT handles title search, examination, commitment and policy production through its own employees. Full-time licensed examiners search the various county records through an on-line title plant leased to AHT from Title Records, L.L.C. In Colorado, AHT limits its underwriting needs to Stewart Title Guarantee Company. All rates charged by AHT for title insurance products are based on the Stewart Title Guarantee Company rate filing with the Colorado Division of Insurance. AHT does not employ any transaction closers. As such, escrow services (document presentation, notary services, disbursement of funds, etc.) on transactions where AHT is handling the title insurance are handled independently of AHT.

AHT is a wholly owned subsidiary of M.D.C. Holdings, Inc. (“MDC”), a New York Stock Exchange publicly traded corporation. MDC is a national Top-10 homebuilder, whose subsidiaries build homes under the name “Richmond American Homes”, and financing home purchases through its lending subsidiary, HomeAmerica Mortgage Corporation. MDC also wholly owns an insurance agency, American Home Insurance Agency, which issues homeowners policies and related lines of insurance.



### **PURPOSE AND SCOPE OF EXAMINATION**

The purpose of this examination was to audit the business practices of American Home Title and Escrow Company (hereinafter referred to as Company) as applicable to title insurance in the State of Colorado. This procedure is in accordance with Section 10-1-203, C.R.S., which empowers the Commissioner to examine insurance companies. The findings in this report, including all work products developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to title insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and materials maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2003 to December 31, 2003.

File sampling was based on a review of underwriting and claims files that were systematically selected using ACL<sup>TM</sup> software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only title insurance issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Operations
2. Sales and Marketing
3. Underwriting and Rating

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's title insurance Operations, Sales & Marketing and Underwriting and Rating practices to determine compliance with the Colorado insurance laws outlined in Exhibit 1.

**Exhibit 1**

| <b>Law</b>         | <b>Subject</b>  |
|--------------------|---|
| Section 10-4-404.5 | Rating plans-P&C type II insurers-rules and regulations                     |
| Section 10-3-1104  | Unfair methods of competition and unfair or deceptive acts or practices     |
| Section 10-11-101. | Short title.  |
| Section 10-11-102. | Definitions.  |
| Section 10-11-103. | Compliance with article required.   |
| Section 10-11-104. | Corporate form required.  |
| Section 10-11-105. | Financial requirements prior to the article.                                |
| Section 10-11-106. | Determination of insurability required.                                     |
| Section 10-11-107. | Powers.   |
| Section 10-11-108. | Prohibitions.   |
| Section 10-11-109. | Unearned premium reserve.   |
| Section 10-11-110. | Amount of unearned premium reserve-release.                                 |
| Section 10-11-111. | Reserve for unpaid losses and loss expense.                                 |
| Section 10-11-112. | Net retained liability.   |
| Section 10-11-113. | Power to reinsure.  |
| Section 10-11-114. | Legal investments and admitted assets.                                      |
| Section 10-11-115. | Prior investments.  |
| Section 10-11-116. | Title insurance agents licensed.  |
| Section 10-11-117. | Title insurance agents-certain names prohibited.                            |
| Section 10-11-118. | Title insurance.  |
| Section 10-11-119. | Laws applicable.  |
| Section 10-11-120. | Corporate existence preserved.  |
| Section 10-11-121. | Application of article-other laws applicable.                               |
| Section 10-11-122. | Title commitments.  |
| Section 10-11-123. | Notification of severed mineral estates.                                    |
| Regulation 3-5-1   | Title Insurance   |
| Regulation 1-1-7   | Market Conduct Record Retention   |
| Regulation 1-1-8   | Penalties And Timelines Concerning Division Inquiries And Document Requests |
| Regulation 5-1-10  | Rate and Rule filing regulation   |
| Regulation 6-4-1   | Privacy of Consumer Financial And Health Information                        |



**Contract Forms and Endorsements**

The following Title Insurance forms and endorsements were reviewed for compliance applicable to the period under examination:

| <b>Title</b>  | <b>Form</b>    |
|---|----------------|
| Restrictions, etc. Improved land 1-4 Family Dwellings         | 100            |
| Environmental Protection (Only for Residential Property)      | 140.1          |
| ALTA Condominium Endorsement                                  | 115.1          |
| ALTA Planned Unit Development                                 | 115.2          |
| Variable Rate Mortgage (ALTA 6)                               | 110.7          |
| (Residential Extra Protection)(Only for 1-4 Family Dwellings) | 130            |
| Inflation (Only for use with ALTA Plain Language Policy)      | CT-397         |
| Variable Rate Mortgage (ALTA 6.2)                             | 110.8          |
| ALTA Loan Policy Jacket                                       | FNTIC No. 1412 |
| ALTA Owners Policy  | FNTIC No. 1312 |

**Sales and Marketing**

For the period under examination, the examiners reviewed advertising and promotional materials provided by the Company.

| <b>Population</b> | <b>Sample Size</b> | <b>Percentage to Population</b> |
|-------------------|--------------------|---------------------------------|
| 6                 | 6                  | 100%                            |

**Underwriting and Rating**

The examiners reviewed the rate and fee filings, submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of title policies and closing fees, rated by county, and type of policy to determine compliance with filed base rates and fees.

| <b>Population</b> | <b>Sample Size</b> | <b>Percentage to Population</b> |
|-------------------|--------------------|---------------------------------|
| 2,623             | 50                 | 2%                              |

**EXAMINATION REPORT SUMMARY**

The examination resulted in zero (0) issues arising from the Company's apparent failure to comply with Colorado insurance law that govern all Title Insurance Companies operating in Colorado.

**State Market Conduct Examiners**

**John J. Postolowski, CIE, MA, FLMI, AIRC, ACS**

**David M. Tucker, AIE, FLMI, ACS**

**John Bell**

**For**

**The Colorado Division of Insurance**

**1560 Broadway, Suite 850**

**Denver, Colorado 80202**

**participated in this examination and in the preparation of this report.**